

Amendment and Response

Serial No. 10/019,643

Filed: December 28, 2001

Page 5

METHOD AND COMPOSITION FOR AFFECTING REPRODUCTIVE SYSTEMS

Remarks

The Office Action mailed July 14, 2003, has been received and reviewed. Claims 4, 6, 20, and 29 having been amended, claims 5, 7-9, 20, and 22 having been canceled, the pending claims are claims 4, 6, 12-21, 23, and 27-29. Reconsideration and withdrawal of the rejections are respectfully requested.

Independent claims 4 and 29 have been amended to recite a single species, the elected species "bird." As a result, claims 5, 7-9 and 22 have been canceled, without prejudice, as being either redundant or directed to a non-elected species. Likewise, the recitation of "bird" in claims 6 and 20 has been deleted as being redundant. Claim 4 has been further amended to delete recitation of "a polynucleotide comprising a nucleotide sequence encoding a polypeptide comprising an zona pellucida protein or immunogenic fragment thereof." Claim 6 has been further amended to correct a claim dependency.

Restriction/Species Election and Claim Objections

The Examiner objected to the amendment of claim 4 as not containing a proper Markush group as the species recited within the grouping are not structurally related, and withdrew the invention drawn to administering polynucleotides as being drawn to a non-elected invention. Applicants disagree, asserting that a polynucleotide is *ipso facto* structurally related to the polypeptide it encodes. However, solely to advance prosecution of the instant application, claim 4 is amended to delete recitation of a polynucleotide.

Applicants note with appreciation the extension of the search from the elected species "bird" to another member of the genus, "rabbit," as no prior art was found relating to birds.

Claims 7 and 8, indicated by the Examiner as being drawn to non-elected species (reptile and fish, respectively) and therefore withdrawn from examination, have been canceled by the Applicants, without prejudice to further prosecution in a continuing application.

Claims 5, 22 and 29 were objected to as containing a non-elected species, and claim 6 was objected to as being dependent on a rejected claim. Claim 5 and 22 have been canceled, without prejudice to further prosecution in a continuing application, and claim 29 has been amended to recite the elected species "bird." Claim 6 has been amended to depend from claim 4,

Amendment and Response

Serial No. 10/019,643

Filed: December 28, 2001

Page 6

METHOD AND COMPOSITION FOR AFFECTING REPRODUCTIVE SYSTEMS

which is pending.

Claims 5, 7, 8 and 22 having been canceled, and claims 4, 6 and 29 being amended as indicated above, is believed that the Examiner's objections to claims have been overcome.

Reconsideration and withdrawal of the claim objections is respectfully requested.

Rejection Under 35 U.S.C. §112, Second Paragraph

The Examiner rejected claim 20 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and claim the subject matter. The Examiner alleges that the term "companion bird" has no antecedent basis in claims 18, 17, or 1.

This rejection is respectfully traversed. However, claim 20 has been amended to delete recitation of "companion bird" rendering the rejection moot. Reconsideration and withdrawal of the rejection is respectfully requested.

Rejection Under 35 U.S.C. §102(b)

The Examiner rejected claims 4, 9, 12-19, 21, 23, and 27-28 under 35 U.S.C. §102(b) as being anticipated by Dunbar et al. (U.S. Patent No. 5,637,300) and/or Isojima et al. (U.S. Patent No. 5,348,866). This rejection is respectfully traversed.

As noted by the Examiner, the search was extended from birds to rabbits, and the '300 and '866 patents teach methods of preventing fertilization in rabbits. Without prejudice to further prosecution of the method as it is directed to rabbits or other members of the originally claimed genus, claim 4 has been amended to recite only one species, "bird." Claims 12-19, 21, 23, 27 and 28 depend from claim 4, and claim 9 has been canceled. It is respectfully submitted that this amendment obviates the rejection of the claims, as the cited references do not teach all elements of the claimed invention.

Reconsideration and withdrawal of the rejection of claims 4, 9, 12-19, 21, 23, 27 and 28 is, accordingly, requested.

Amendment and Response

Serial No. 10/019,643

Filed: December 28, 2001

Page 7

METHOD AND COMPOSITION FOR AFFECTING REPRODUCTIVE SYSTEMS**Summary**

It is respectfully submitted that the pending claims 4, 6, 12-21, 23, and 27-29 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for
Fayrer-Hosken et al.

By
Mueting, Raasch & Gebhardt, P.A.
P.O. Box 581415
Minneapolis, MN 55458-1415
Phone: (612) 305-1220
Facsimile: (612) 305-1228
Customer Number 26813

Oct 14, 2003
Date

By: [Signature]
Victoria A. Sandberg
Reg. No. 41,287
Direct Dial (612)305-1226

CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 14th day of October, 2003, at 10:31 a.m. (Central Time).

By: Rachel Gagliardi - Graba
Name: Rachel Gagliardi - Graba

RECEIVED
CENTRAL FAX CENTER

OCT 14 2003

OFFICIAL